HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRI. REV. APPLICATION NO. 135 OF 2002.

Mangala P. Sathe. ..Applicant.

Versus.

Pandharinath A. Sathe. ..Respondent.

Mr. S.S.Redekar for the applicant.

Mr. N.V.Gangal for the respondent.

CORAM: S.B.MHASE &
D.B.BHOSALE, JJ.

DATE: FEBRUARY 7, 2005.

P.C.

1. This is revision application filed by the wife against the judgment and order dated 7.2.2001 passed by the Family Court, Bandra in Petition No.E-581/99 whereby the amount of maintenance is enhanced from Rs.500/- to Rs.750/-. The wife being aggrieved by the said order, has approached this court claiming that taking into consideration the income of the respondent, the maintenance of Rs.1,500/- per month should have been granted. The pay-slip of the respondent-husband is before us which shows that the income of the respondent-husband is Rs.9,107.91 per month. The learned counsel for the respondent Mr.N.V. Gangal submitted that there are two members in the family of the respondent- husband who are fully dependent on him,

namely, his father and mother. He submits that, therefore the order passed by the Family Court is proper. However, ultimately he realises that the order passed by the Family Court is disproportionate with the income of the respondent. He, therefore, concedes to fix the amount of maintenance at Rs.1,250/- per month. He further pointed out that there is a divorce petition pending between the parties. Learned counsel for the applicant-wife submitted that yet the notice of the said petition is not served on the wife. However, he submits that in that eventuality the wife can file an application under section 24 of the Hindu Marriage Act for alimony. He submits that the maintenance as fixed in the present proceeding shall not be finally binding on the parties and liberty may be kept open in favour of the wife before the family court. Mr. Gangal has no objection for the grant of such liberty. Therefore, in view of the concessions and submissions made by both side advocates, we pass following order.

O R D E R.

1. The order dated 7th February 2001 passed by the Family Court at Bandra in Petition No. E-581/99 is hereby quashed and set aside.

2. We direct the respondent - husband to pay the maintenance at the rate of Rs.1,250/- (Rs.One thousand Two Hundred fifty only) per month from 7th February 2001.

3. We make it clear that the rights of both parties to agitate their rights in respect of the alimony in the marriage petition have been kept open.

4. Petition is dispose accordingly.

(D.B.BHOSALE,J.) **(S.B.MHASE, J.)**

:srp/2005/